

Message Text

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ORIGIN MC-02

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APPROVED BY PM/MC:WBROBINSON

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R 022342Z OCT 75

FM SECSTATE WASHDC

TO AMEMBASSY JIDDA

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E.O. 11652: N/A

TAGS: MILI

SUBJ: LOCKHEED CONTRACT WITH CIVIL AVIATION DIRECTORATE
STALLED OVER WORDING OF EXPORT AND USE CLAUSE

1. AT MEETING IN OFFICE OF MUNITIONS CONTROL (MC) ON
SEPT. 11, LOCKHEED COUNSEL DON GORE AND WASHINGTON
REPRESENTATIVES WERE ADVISED OF NECESSITY OF REQUIRED PRO-
VISIONS OF 125.10(D) AND (E) OF INTERNATIONAL TRAFFIC IN
ARMS REGULATIONS (ITAR, SEE 10 FAM 180A) APPLICABLE TO
ALL US CONTRACTORS' LICENSING AGREEMENTS COVERING U.S.
MUNITIONS LIST EQUIPMENT AND TECHNOLOGY WITH ANY COUNTRY
AND THAT WAIVER CANNOT BE GRANTED IN PRESENT CASE SO LONG
AS DEFENSE RELATED EQUIPMENT FOR AIR TRAFFIC CONTROL IS
INVOLVED.

2. THE LANGUAGE QUOTED FROM THE AGREEMENT IN PARAGRAPH 4
OF YOUR 6574 APPEARS TO BE UNNECESSARILY REDUNDANT AND
OVERLY EMPHATIC OF THE REQUIREMENT STATED IN 124.10(D)
AND (E) OF THE ITAR. DEPARTMENT IS AWARE OF THE PRE-
DOMINANTLY COMMERCIAL CHARACTER OF THE AGREEMENT AND THE
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ITAR WOULD NOT APPLY IF NO DEFENSE EQUIPMENT I.E. U.S.

MUNITIONS LIST OR TECHNOLOGY INCLUDED.

3. SUBSEQUENT TO ABOVE MEETING, AND ON THE PREMISE THAT AIR DEFENSE ITEMS ARE INCLUDED IN THE AGREEMENT, MC SUGGESTED TO LOCKHEED THE FOLLOWING ALTERNATIVE GENERAL LANGUAGE, PROVIDED BY OUR LEGAL ADVISER'S OFFICE, TO INCORPORATE THE ITAR BY REFERENCE IN LIEU OF REQUIRED SECTIONS 125.10(D) AND (E): QUOTE: TO THE EXTENT THAT THIS CONTRACT INVOLVES ITEMS OR TECHNICAL DATA ON THE MUNITIONS LIST FROM SOURCES IN THE U.S., THE PROVISIONS OF 22 CFR 124.10, INCLUDING BUT NOT LIMITED TO THE REQUIREMENTS FOR U.S. CONSENT TO TRANSFER SUCH ITEMS OR DATA, SHALL APPLY AND ARE INCORPORATED HEREIN BY REFERENCE. END QUOTE.

4. DON GORE REPLIED FROM LONDON ON SEPTEMBER 18 THAT SUGGESTED TEXT WOULD BE FORWARDED TO SAUDIS BUT AGAIN PRESSED FOR A COMMODITY JURISDICTION DETERMINATION BY U.S. GOVERNMENT AS TO WHETHER ANY DEFENSE RELATED EQUIPMENT OR TECHNOLOGY IS INVOLVED IN THIS AIR TRAFFIC CONTROL AGREEMENT. DEPARTMENT OF DEFENSE HAS SINCE RE-AFFIRMED POSITION STATED IN SEPTEMBER 11 MEETING, THAT SINCE THE AGREEMENT INCLUDES AIR DEFENSE RELATED EQUIPMENT, THERE IS NO COMMODITY JURISDICTION DETERMINATION TO BE MADE, HENCE AGREEMENT REQUIRES ITAR APPROVAL. LOCKHEED WASHINGTON OFFICE SO ADVISED. KISSINGER

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